

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SANDRA S. KATZ,)
Plaintiff)
)
v.)
)
DONNA LEE H. WILLIAMS, INSURANCE)
COMMISSIONER OF THE STATE OF)
DELAWARE AS RECEIVER OF NATIONAL)
HERITAGE LIFE INSURANCE COMPANY)
IN LIQUIDATION,) CIVIL ACTION
Defendant and) NO. 05-40014-FDS
Third Party Plaintiff,)
)
v.)
)
FEDERAL DEPOSIT INSURANCE CORPORATION;)
UNITED STATES OF AMERICA;)
E. PERRY KING;)
ALAN MASON;)
ALAN MASON LEGAL SERVICES, P.C.;)
ALAN MASON LEGAL SERVICES, INC.,)
ALAN MASON d/b/a)
ALAN MASON LEGAL SERVICES, P.C.;)
ALAN MASON d/b/a)
ALAN MASON LEGAL SERVICES, INC.;)
and)
ALAN MASON LEGAL SERVICES, P.C. d/b/a)
ALAN MASON LEGAL SERVICES, INC.,)
)
Third Party Defendants.)
)

**FEDERAL DEFENDANTS' UNOPPOSED MOTION
FOR EXTENSION OF TIME TO ANSWER**

The United States, on its behalf and on behalf of the Federal Deposit Insurance Corporation, an agency of the United States, requests that this Court grant it an extension to file an Answer to the Complaint up to and including April 4, 2005.

Defendant Donna Lee H. Williams served her Complaint, filed in the Commonwealth of Massachusetts, Worcester Superior Court, upon the United States Attorney's office on December 30, 2004.¹ The case was removed to the United States District Court by Notice of the Federal Deposit Insurance Corporation on January 21, 2005.

Rule 81(c), Federal Rules of Civil Procedure, requires that the defendants in a removed case file their Answers "within 20 days after the receipt through service or otherwise of the copy of the initial pleading . . . or within 5 days of filing the petition for removal." Neither of the federal defendants was able to file its Answer within the short time period set forth in the rule.

The federal defendants request a period of approximately 60 days within which to answer in order that they may investigate the claims against them. The real property that is the subject of the claims has not been within the possession or control of the FDIC since the early 1990's. The files related to the property are in storage; their location(s)

¹ The Federal Deposit Insurance Corporation, an agency of the United States, was served on December 28, 2004. It is unknown at this time whether, pursuant to Rule 4(i), Federal Rules of Civil Procedure, Katz has served the Attorney General of the United States, and if so, when.

must be researched, segregated from other files of the period that were sold to the same assignee, retrieved from the storage facility, and delivered to counsel before they can be examined and evaluated. Once counsel has been able to examine the files, they must identify and locate the FDIC personnel involved with the sale, and the FDIC personnel involved in the execution of the 2002 declaration of mortgage discharge, personnel who may no longer be employees of the FDIC. Despite diligence, these tasks could not have been accomplished within the time specified in Rule 81, assuming Donna Lee H. Williams accomplished proper service upon the federal defendants, and counsel estimate that the tasks cannot be accomplished in a period of time shorter than 60 days.

Accordingly, an extension is requested to permit the federal defendants to investigate the claims and prepare and finalize their Answer.

Counsel for Donna Lee H. Williams does not oppose this motion or any extension of time.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

/s/ Anita Johnson

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CERTIFICATE OF SERVICE AND RULE 7.1 CONFERENCE

I certify that the foregoing has been served upon counsel of record and that I conferred with counsel for Donna Lee H. Williams, James F. Creed, Jr., 1329 Highland Avenue, Needham, Mass. 02492, and he did not oppose this Motion or any extension of time to answer, both on this fourth day of February, 2005.

/s/Anita Johnson